

**RZ 2012 MV-015
MCSHAY COMMUNITIES
PROFFER STATEMENT**

October 20, 2014

Pursuant to Section 15.32-2303(A) of the Code of Virginia, as amended, and subject to the Fairfax County Board of Supervisors' (the "Board") approval of rezoning application RZ 2012-MV-015, as proposed, for rezoning from the R-1 District to the R-12 District, McShay Communities (the "Applicant"), and the Loyal Order of Moose, Woodbridge Lodge No. 583, Inc. (the Title Owner) for their selves and their successors and assigns, hereby proffer that development of Tax Map Parcel 107-4((1)) 40A (the "Property"), containing approximately 4.9037 acres, shall be in accordance with the following proffered conditions:

1. Substantial Conformity. The Property shall be developed in substantial conformance with the Generalized Development Plan ("GDP") consisting of 12 sheets prepared by Soil & Structure Consulting and dated April 26, 2012 revised through October 8, 2014, as further modified by these proffered conditions.
2. Minor Modifications to Design. Pursuant to Paragraph 5 of Section 18-204 of the Zoning Ordinance, minor modifications from the approved GDP may be permitted as determined by the Zoning Administrator. The Applicant may have the flexibility to modify the layout shown on the GDP provided such changes are in substantial conformance with the GDP and proffers, and do not increase the total number of units, change the unit type, or decrease the minimum amount of open space or peripheral setbacks shown to be provided on the Property.
3. Maximum Density. A maximum of forty (40) single family attached dwelling units at a maximum density of 8.16 dwelling units per acre shall be permitted on the Property. The Applicant reserves the right to develop fewer than this maximum number of units referenced in this paragraph without the need for a Proffered Condition Amendment ("PCA") application.
4. Establishment of HOA. Prior to final site plan approval, the Applicant shall either provide the Department of Public Works and Environmental Services (DPWES) with documentation that the subject property has been incorporated into an adjacent Homeowners Association (HOA) or the Applicant has established a HOA in accordance with Sect. 2-700 of the Zoning Ordinance. The purpose of the HOA shall be, among other things, establishing the necessary residential covenants governing the use and operation of common open space and other facilities of the approved development and to provide a mechanism for ensuring the ability to complete the maintenance obligations and other provisions noted in these proffer conditions, including an estimated budget for such common maintenance items.

5. Disclosure. Prior to entering into a contract of sale, prospective purchasers shall be notified in writing by the Applicant of the maintenance responsibility for the private roadways, stormwater management facilities, common area landscaping, and any other open space amenities and shall acknowledge receipt of this information in writing. The initial deeds of conveyance and HOA governing documents shall expressly contain these disclosures and an estimated budget for such common maintenance items.

6 Stormwater Management/Best Management Practices.

a. The Applicant shall implement stormwater management (SWM) and Best Management Practices (BMP) techniques to control the quantity and quality of stormwater runoff from the Application Property in accordance with the standards of the Fairfax County Public Facilities Manual (PFM) as determined by DPWES and in substantial conformance with the GDP.

b. Low-Impact Development ("LID") Techniques. Supplementary innovative measures may be used on the subject Property, such as a bio-retention facility (rain garden) infiltration trenches, rain barrels, and/or grassy swales, subject to DPWES approval, to meet water quality requirements if necessary.

7 Transportation.

a. The Applicant shall dedicate and convey in fee simple to the Board of Supervisors, without encumbrances and at no cost to Fairfax County, right-of-way up to a width of ninety (90) feet from the centerline along the Application Property's Richmond Highway frontage as shown on the GDP. The dedication shall be made at recordation of final site plan approval.

b. The Applicant shall reserve for future dedication to the Board of Supervisors right-of-way up to a width of 25 feet from the property line along the Application Property's frontage with Parcel 41 contiguous to Hagel Circle as shown on the GDP. The reservation shall be made at recordation of final site plan. Ultimately, the dedication shall be made without encumbrances and at no cost to Fairfax County, and shall be dedicated upon demand by either Fairfax County or Virginia Department of Transportation (VDOT), whichever should first occur.

c. At the time of record plat recordation, the Applicant shall cause to be recorded among the land records a public access easement running to the benefit of Fairfax County, in a form acceptable to the County Attorney, over the private road and sidewalks as generally shown on the GDP. Members and guest of the Moose Lodge shall not use the private streets to access the Lodge property, unless permission is granted by the Royal Ridge HOA.

d. In the event that Tax Map as 107-4 ((6)) 1-3 are redeveloped to residential dwelling units by the Applicant, the Applicant (or successor HOA) shall grant all necessary easement for interparcel access easement to permit Tax Map as 107-4 ((6)) 1-3

access to Hagel Circle. The potential for interparcel access for Tax Map 107-4 ((6)) 1-3 shall be stated in the HOA documents. Prior to the redevelopment of parcels 107-4 ((6)) 1-3, the applicant shall permit emergency access for emergency vehicles to use the interparcel access easement in a manner acceptable to the Fire Marshal.

e. Prior to final site plan approval, the applicant shall seek a VDOT approved plan for the restriping of the existing pavement of northbound Route 1 so as to provide for a left turn lane at Hagel Circle.

f. Prior to the issuance of building permits for Lots 8-40, and prior to the issuance of Residential Use Permits (RUPs) for Lots 2-40, the Applicant shall restripe the existing pavement to provide a northbound left turn lane on Route 1 at Hagel Circle as approved by VDOT. If VDOT's approval of the restriping plan is withheld, the Applicant may provide an alternative design for the restriping of the existing pavement for the purpose of providing a left turn lane as agreed upon by VDOT via their design waiver/modification process. The Applicant shall also have the option to submit a request for a proffered condition amendment (PCA) to bring the GDP into substantial conformance with the road improvements necessary to make the project work. The Applicant reserves the right to seek VDOT approval to have the left turn lane requirement eliminated and/or to have VDOT bear the cost of providing for a left turn lane in either event without proffered condition amendment.

g. Upon demonstration by the applicant that, despite diligent efforts or due to factors beyond the applicant's control, the applicant will be or has been delayed in the completion of one or more of the obligations or improvements required by these conditions beyond the timeframes set forth in these conditions, the Zoning Administrator may agree to a later date for the fulfillment/completion of such obligations or improvements, provided the applicant otherwise is in substantial conformance with these conditions.

- 8 Limits of Clearing and Grading. Development of the Property shall conform to the limits of clearing and grading shown on the GDP, subject only to the installation of utilities, trails and roadways, if necessary, as approved by DPWES. All limits of clearing and grading shall be protected by temporary wire fencing that is a minimum of four (4) feet in height, in accordance with Urban Forest Management Division (UFMD) standards. Any necessary disturbance for utilities beyond that shown on the GDP shall be coordinated with UFMD and accomplished in the least disruptive manner reasonably possible given engineering, cost, and site design constraints, as determined by UFMD. Any area protected by the limits of clearing and grading that must be disturbed due to the installation of water lines shall be replanted with the application of straw, mulch, grass seed and/or a mix of native vegetation as determined by UFMD, to return the area as nearly as reasonably possible to its condition prior to the disturbance, as determined by UFMD.

9 Geotechnical Investigation. The Applicant shall submit a geotechnical investigation of the site for the review and approval of DPWES and implement such measures as determined by the investigation, subject to the satisfaction of DPWES.

10. Tree Preservation.

- A. Plan. The Applicant shall contract with a certified arborist to prepare a tree preservation plan to be submitted as part of the first and all subsequent subdivision submissions. The plan shall be reviewed and approved by UFMD in accordance with all applicable PFM and Zoning Ordinance requirements, as such may be modified by appropriate approvals set forth in this rezoning application. The certified arborist responsible for the preparation of the tree preservation plan shall be referred to as the "Project Arborist." Said tree preservation plan shall provide for preservation of specific quality trees or stands of trees within the tree save areas depicted on the GDP to the maximum extent reasonably feasible, subject to the potential installation of utilities, and to the maximum extent reasonably feasible without precluding the development of a single family home typical to this project on each of the building envelopes and lots shown on the GDP. UFMD may require reasonable modifications of such plan to the extent these modifications do not alter the number of dwelling units shown on the GDP, reduce the size of the proposed units, significantly move their location on the lot, or require the installation of retaining walls. The tree preservation plant shall consist of a tree survey which includes the locations, species, size, crown spread, and condition rating percent of all trees measuring twelve (12) inch diameter at breast height (dbh") or greater located within ten feet (10) inside and twenty-five (25) feet outside the limits of clearing areas depicted on the GDP. Additionally, included in the tree preservation plan shall be a condition analysis and rating for all trees measuring twelve (12) inch dbh or greater located within ten (10) feet of the inside and twenty-five (25) feet outside of the limits of clearing and grading for all tree buffer areas shown to be preserved on the GDP. The condition analysis shall be prepared using methods outlined in the latest edition of "The Guide for Plant Appraisal." Specific tree preservation activities shall be incorporated into the tree preservation plan. Activities should include, but no be limited to, crown pruning, root pruning, mulching and fertilization.
- B. Tree Preservation Walk-Through. The Applicant shall retain the services of a Certified Arborist or Registered Consulting Arborist, and shall have the limits of clearing and grading marked with a continuous line of flagging prior to the walk-through meeting. During the tree preservation walk-through meeting, the Applicant's certified arborist or landscape architect shall walk the limits of clearing and grading with an UFMD, DPWES, representative to determine where adjustments to the clearing limits can be made to increase the area of tree preservation and/or to increase the survivability of trees at the edge of the limits of clearing and grading, and such adjustment shall be implemented. Trees that are identified as dead or dying or potentially hazardous may be removed as part of the clearing operation with approval of UFMD. Any tree that is so designated shall

be removed using a chain saw and such removal shall be accomplished in a manner that avoids damage to surrounding trees and associated understory vegetation. If a stump must be removed, this shall be done using a stump-grinding machine in a manner causing as little disturbance as possible to adjacent trees and associated understory vegetation and soil conditions.

- C. Tree Preservation Fencing. All trees and buffers shown to be preserved on the tree preservation plan shall be protected by fencing. Tree protection fencing shall be erected at the limits of clearing and grading. Materials and installation of tree protection fencing shall consist of four foot-high, 14-gauge welded wire, attached to six foot steel posts, driven 18 inches into the ground and placed no further than 10 feet apart. The tree protection fencing shall be installed after the tree preservation walk-through meeting and prior to the performance of any clearing and grading activities on-site. All tree preservation activities, including the installation of tree protection fencing, shall be performed under the supervision of the Project Arborist and accomplished in a manner that does not harm existing vegetation to be preserved. Prior to commencement of any clearing and grading activities on-site, the Project Arborist shall verify in writing that the tree protection fencing has been properly installed.
 - D. Signage. Signage shall be surely attached to the protective fencing, identifying the tree preservation area and made clearly visible to all construction personnel. Signs shall measure a minimum of 10x12 inches and read: "TREE PRESERVATION AREA – KEEP OUT." Three days prior to the commencement of any clearing, grading or demolition activities, UFMD shall be notified and given the opportunity to inspect the site to ensure that all tree protection fencing has been installed properly.
 - E. The HOA documents shall require that no structures (other than utilities, utility lines, and/or trails as provided herein above) or fences shall be erected in the tree save area, and that trees in HOA open space areas and the tree save area will not be disturbed except as approved by UFMD for (i) the removal of disease, dead, dying or hazardous trees or parts thereof; and/or (ii) selective maintenance to remove noxious and poisonous weeds.
11. Landscaping. Landscaping shall be generally consistent with the quality, quantity and the locations shown illustratively on Sheet 9 of the GDP. At the time of planting, the minimum caliper for deciduous trees shall be two (2) to two and one-half (2 ½) inches and the minimum height for evergreen trees shall be six (6) feet. Actual types, locations and species of vegetation shall be determined pursuant to more detailed landscape plans submitted at the time of submission of site plan for review and approval by UFMD. Such landscape plans shall provide tree coverage and species diversity consistent with the PFM criteria, as determined by UFMD. The Applicant reserves the right to make minor modifications to such landscaping to reasonably accommodate utilities and other design considerations, provided such relocated landscaping shall retain a generally equivalent number of plantings as shown on the approved GDP.

12. Public Schools Contribution.

- A. At the time of issuance of the first building permit, Applicant shall contribute to Fairfax County a maximum of \$157,320.00 for capital improvements to schools located within the pyramid serving the subject Property.
- B. Adjustment to Contribution Amounts. Following approval of this Application and prior to the Applicant's payment of the amount(s) set forth in this Proffer, if Fairfax County should increase the ratio of students per unit or the amount of contribution per student, the Applicant shall increase the amount of the contribution for that phase of development to reflect the then-current ratio and/or contribution. If the County should decrease the ratio or contribution amount, the Applicant shall provide the greater of the two amounts.
- C. The Applicant shall notify Fairfax County Public Schools (FCPS) when the site plan has been filed in order to allow the school system adequate time to plan for anticipated student growth to ensure classroom availability.

13. Recreational Facility Contribution. The Applicant shall provide a contribution of \$116,090.00 to the Fairfax County Park Authority for recreational facilities ("Park Contribution"). This contributions shall be adjusted for inflation in conformance with the consumer Price Index, occurring subsequent to the date of subject rezoning approval and up to the date of payment of the contribution.

14. Garages and Driveways. The Applicant shall place a covenant on each residential lot that prohibits the use of the garage for any purpose which would preclude motor vehicle storage. This covenant shall be recorded among the land records of Fairfax County prior to the sale of lots and shall run to the benefit of the HOA and to the Board. Prior to recordation, the covenant shall be approved by the Fairfax County Attorney's office. The HOA documents shall expressly state this use restriction. The driveway provided for each home shall be a minimum of eighteen (18) feet in length and sixteen (16) feet in width.

15. Architectural Elevations.

- a. Illustrative building elevations for the proposed units shall be generally consistent in character, as to architectural style and quality, with the conceptual elevations as shown in the GDP. As determined by the Applicant, sides and rears of the houses will be vinyl siding, and the fronts will be brick or stone products and/or similar materials.
- b. Houses on Lots 1, 40, 29 and 30 will have brick on side facing Route 1.
- c. Houses on Lots 34 through 40 will all have rear decks as a standard feature and not an option. The future homeowners may, at their discretion, modify or remove the decks.

16. Energy Efficiency. All new dwelling units shall be designed and constructed to achieve one of the following:
- Certification in accordance with the 2012 National Green Building Standard (NGBS) using the ENERGY STAR® Qualified Homes path for energy performance, as demonstrated through documentation submitted to the Environment and Development Review Branch (EDRB) of the Department of Planning and Zoning (DPZ) from a home energy rater certified through the Home Innovation Research Labs that demonstrates that each dwelling unit has attained the certification prior to the issuance of the Residential Use Permit (RUP) for each dwelling.
 - As an alternative, each new house shall be designed and constructed to achieve certification in accordance with the Earth Craft House Program as demonstrated through documentation provided to DPWES and DPZ prior to the issuance of a RUP.
17. Noise Attenuation. The applicant commits to reducing noise in interior areas of new residential use to not exceed 45 decibels. The applicant also commits to reducing noise in outdoor recreational areas or the rear yards of new homes to not exceed 65 decibels. In order to achieve this commitment, at the time of site plan submission, the Applicant shall submit a refined acoustical analysis based on final site grades and future traffic volumes and future roadway improvements on Richmond Highway to DPZ and DPWES for review and approval in accordance with the established guidelines for noise analysis at time of site plan approval.

For future residences which fall within a highway noise impact zone of DNL 65-70 dBA Ldn, the Applicant shall employ the use of building materials which possess the following noise reduction specifications:

- i. Exterior walls shall have a laboratory sound transmission class (STC) rating of at least 39.
- ii. Doors and windows shall have a laboratory STC rating of at least 28 unless windows constitute more than 20% of any façade exposed to noise levels of DNL 65 dBA or above. If glazing constitutes more than 20% of an exposed façade, then the windows should have a STC rating of at least 39.
- iii. All surfaces shall be sealed and caulked in accordance with methods approved by the American Society for Testing and Materials (ASTM) to minimize sound transmission.

For future residences which fall within the highway noise impact zone of DNL 70-75 dBA Ldn, the Applicant shall employ the use of building materials which possess the following noise reduction specifications:

- i. Exterior walls should have a laboratory sound transmission class (STC) rating of at least 45.

- ii. Doors and windows should have a laboratory STC rating of at least 37. If windows constitute more than 20% of any façade they should have the same laboratory STC rating as walls.
- iii. Measures to seal the caulk between surfaces should follow methods approved by the American Society for Testing and Materials to minimize sound transmission.

No residences shall be constructed in highway noise impact zones of above DNL 75 dBA Ldn.

Prior to the issuance of building permits, the Applicant reserves the right to pursue other methods of mitigating noise impacts that can be demonstrated through an independent noise study, as reviewed and approved by DPWES and DPZ, that demonstrates the proposed methods will be effective in reducing interior noise levels to DNL 45 dBA Ldn or less in interior areas.

18. Screening. An 8-foot high board on board fence shall be constructed and maintained on HOA property as shown on the GDP until the planned future VDOT sound wall parallel to Route 1 is constructed. Thereafter the 8-foot high fence can be removed by the HOA at any time.
19. ADU Contribution. Prior to building permit approval for each group of townhouses, the Applicant shall contribute to the Fairfax County Housing Trust Fund an amount equivalent to one-half percent (0.5%) of the anticipated sales price of each new dwelling unit in that group actually constructed on the Application Property to assist Fairfax County's low and moderate income housing goals.
20. Phase 1 Archaeological. At least 30 days prior to any land disturbing activities on the Property, Applicant shall conduct a Phase I archaeological study on the Property and provide the results of such study to the Cultural Resources Management and Protection Section of the Fairfax County Park Authority (CRMP) for review and approval. The study shall be conducted by a qualified archaeological professional approved by CRMP. No land disturbance activities shall be conducted until this study is submitted to CRMP. If the Phase I study concludes that an additional Phase II study of the Property is warranted, the Applicant shall complete said study and provide the results to CRMP. If the Phase II study concludes that additional Phase III evaluation and/or recovery is warranted, the Applicant shall also complete said work in consultation and coordination with CRMP.
21. Universal Design. At the time of initial purchase, the Applicant shall offer each purchaser the following universal design options at no additional cost:
 - Front entrance doors that are a minimum of 36" wide;
 - Level door handles instead of knobs;
 - Light switches 44"-48" high;
 - Thermostats a maximum of 48" high; and/or

- Electrical outlets a minimum of 18" high

At the time of initial purchase, the Applicant shall offer each purchaser additional universal design options at the purchaser's sole cost. These additional options may include, but not be limited to:

- A curb-less shower, or a shower with a curb of less than 4.5" high;
- Grab bars in the bathrooms that are ADA compliant; and /or,
- A first floor bathroom console sink in lieu of a cabinet/style vanity.

22. HOA Documents. At the time the HOA is turned over to the home owners one of the officers or a witness shall sign a document stating that the following applicable items below have been turned over to the HOA:
 - i) A copy of the latest available approved plans and specifications for all improvements in the project or as-built plans if available.
 - ii) All association insurance policies currently in force.
 - iii) Written unexpired warranties of the contractors, subcontractors, suppliers, and manufacturers, if any, relative to all common area improvements.
 - iv) Any contracts in which the association is a contracting party.
 - v) A list of manufacturers of paints, roofing materials and other similar materials if specified for use on the association property.
23. Construction Access and Hours. The hours of initial construction shall be posted in English and in Spanish and shall be limited to the hours identified within Chapter 108 of Fairfax County Code of Ordinances, including as to §108-4-1(b) as to hours for operation of construction equipment. The initial hours of construction shall be limited to 7 am to 9 pm Monday through Friday and 8 am to 9 pm on Saturday. No construction shall occur on Sunday or Federal Holidays. This shall be disclosed to all contractors and sub-contractors who perform work on the subject property during site construction.
24. Construction Management. Prior to the commencement of construction on the property, the Mt. Vernon District Supervisor and the presidents or other representatives of the homeowners associations as requested by the Supervisor shall be provided with the name, title and phone number of a person to whom comments and/or complaints regarding construction activities may be directed. Such correspondence shall be sent by US Mail, return receipt requested and copies of the receipts and responses shall be made available to County Staff upon request.

MCSHAY COMMUNITIES, INC.

By: _____
Mike McGhan, President

**LOYAL ORDER OF MOOSE
WOODBIDGE LODGE NO. 583, INC.**

By: _____,
its President

OFFICERS:

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____

By: _____
Name: _____
Title: _____